

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
v.) Civil Action No.: 1:19-cv-02465
)
)
BALTIMORE COUNTY,)
MARYLAND)
)
)
Defendant.)
)

COMPLAINT

Plaintiff, the United States of America (“United States”), alleges:

1. This action is brought pursuant to 42 U.S.C. § 2000e-6(a) to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended (“Title VII”).
2. All conditions precedent to the filing of suit have been satisfied.

JURISDICTION AND VENUE

3. This Court has jurisdiction of this action under 42 U.S.C. § 2000e-6(b) and 28 U.S.C. §§ 1331, 1343(a)(3), and 1345.
4. Venue is proper in the United States District Court for the District of Maryland pursuant to 28 U.S.C. § 1391 because Defendant Baltimore County, Maryland (“Baltimore County”) and its agent, the Baltimore County Police Department (“BCPD”), are located in this judicial district and all or a substantial part of the acts or omissions giving rise to this cause of action took place in this judicial district.

PARTIES

5. Plaintiff is the United States of America.

6. Baltimore County is a governmental entity and/or political subdivision created pursuant to the laws of the state of Maryland.

7. Baltimore County is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

STATEMENT OF FACTS

A. The Selection Process for BCPD Entry-Level Police Officers and Police Cadets

8. Baltimore County maintains the BCPD and, through it, employs police officers and police cadets who, among other things, are responsible for protecting individuals and property in Baltimore County.

9. Baltimore County is responsible for the recruitment and hiring of BCPD entry-level police officers and police cadets.

10. Baltimore County is responsible for establishing the terms, conditions, and other practices which bear upon the selection and employment of BCPD entry-level police officers and police cadets.

11. Baltimore County has administered and used a multiple-choice written examination in the screening and selection of applicants for hire into the BCPD entry-level police officer and police cadet positions.

12. Applicants for BCPD entry-level police officer and police cadet positions must successfully obtain a passing score on a multiple-choice written examination.

13. Applicants who fail the written exam are not eligible to continue in the BCPD multi-stage selection process and not hired as BCPD entry-level police officers or police cadets.

B. The Challenged Employment Practices

14. Since January 1, 2013, Baltimore County has administered and used at least three different versions of the written exam in the hiring process for BCPD entry-level police officer and police cadet positions. Each version was developed by the Office of Human Resources of the Baltimore County Government.

15. Baltimore County administered and used one version of the written exam from 2009 to 2013 (“2009 Exam”). The 2009 Exam consisted of 85 questions divided into components identified as reading comprehension (15 questions), vocabulary (15 questions), spelling (20 questions), grammar (15 questions), and logical order/sequencing (20 questions). Applicants who scored 75% or higher on the 2009 Exam were eligible to continue in BCPD’s selection process.

16. From 2009 to 2013, African American applicants passed the 2009 Exam at a lower rate than white applicants passed the 2009 Exam. This difference between the pass rates of white and African American applicants on the 2009 Exam is statistically significant.

17. Baltimore County administered and used a different version of the written exam in 2014 (“2014 Exam”). The 2014 Exam was 100 questions and comprised of two parts. Part I included a note-taking/observation skills section requiring a candidate to review a photograph and answer 15 questions about the photograph. Part II was 85 questions divided into components identified as reading comprehension (15 questions), logical ordering (20 questions), writing skill/grammar (30 questions), and interpretation of data (20 questions). Applicants who scored 70% or higher on the 2014 Exam were eligible to continue in BCPD’s selection process.

18. African American applicants passed the 2014 Exam at a lower rate than white applicants passed the 2014 Exam. This difference between the pass rates of white and African American applicants on the 2014 Exam is statistically significant.

19. Baltimore County began administering and using a different version of the written exam in 2015 (“2015 Exam”). The 2015 Exam is identical to the 2014 Exam except that Part I of the exam contains different questions and photographs; Part II of the exam is the same. Applicants who scored 70% or higher on the 2015 Exam were eligible to continue in BCPD’s selection process.

20. Between 2015 and 2016, African American applicants passed the 2015 Exam at a lower rate than white applicants passed the 2015 Exam. This difference between the pass rates of white and African American applicants on the 2015 Exam is statistically significant.

21. Upon information and belief, Baltimore County continued to administer the 2015 Exam, or a written examination substantially similar to the 2015 Exam, to applicants for BCPD entry-level police officer and police cadet positions after 2016.

22. Baltimore County’s use of each of these written examinations as a pass/fail screening device is not job related for the BCPD entry-level police officer and police cadet positions and consistent with business necessity, and does not otherwise meet the requirements of Section 703(k) of Title VII, 42 U.S.C. § 2000e-2(k).

23. As a result of its use of these written examinations, Baltimore County has hired fewer African American applicants as BCPD entry-level police officers and police cadets since January 1, 2013 than it would have had it used a non-discriminatory screening device.

UNITED STATES' PATTERN OR PRACTICE CLAIMS

24. Plaintiff United States re-alleges and incorporates herein by reference paragraphs 1-23.

25. Since January 1, 2013, Baltimore County has engaged in a pattern or practice of discrimination against African American applicants for BCPD entry-level police officer and police cadet positions in violation of Section 703(a)(2) of Title VII, 42 U.S.C. § 2000e-2(a)(2), by using the 2009, 2014, and 2015 Exams, which have caused a disparate impact on African American applicants on the basis of race, but which are not job-related for the positions in question and consistent with business necessity as required by Section 703(k) of Title VII, 42 U.S.C. § 2000e-2(k).

26. The United States, through the United States Department of Justice, has conducted an investigation of the policies and practices of Baltimore County with respect to its screening and selection of applicants for BCPD entry-level police officer and police cadet positions and the discriminatory effect of such practices on African American applicants. The Department of Justice notified Baltimore County of that investigation and of the United States' determination that the policies and practices outlined in paragraphs 8 through 23 are unlawful.

27. The Attorney General has reasonable cause to believe that the policies and practices of Baltimore County outlined in paragraphs 8 through 23 above constitute a pattern or practice of resistance to the full enjoyment by African Americans applicants of the rights protected by Title VII.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court order Defendant Baltimore County, and its officers, agents, employees, successors, and all persons in active concert or participation with them, to:

- a. refrain from using written examinations to screen and select applicants for BCPD entry-level police officer and police cadet positions where such use results in a disparate impact on African Americans, is not job-related for the position in question and consistent with business necessity, and does not otherwise meet the requirements of Section 703(k) of Title VII, 42 U.S.C. § 2000e-2(k);
- b. provide make whole remedial relief to all persons who have suffered individual loss as a result of the discrimination alleged in this Complaint; and
- c. adopt other appropriate nondiscriminatory measures to correct the present effects of its discriminatory policies and practices, including the use of entry-level police officer and police cadet selection procedures that comply with Title VII.

Plaintiff United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

Dated: August 27, 2019

Respectfully submitted,

ERIC S. DRIEBAND
Assistant Attorney General
Civil Rights Division

DELORA L. KENNEBREW
Chief
Employment Litigation Section
Civil Rights Division

/s/ Meredith Burrell

MEREDITH L. BURRELL (MD Bar, No Number Issued)
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/s/ Kathleen Lawrence

/s/ Kunti Salazar

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CIVIL COVER SHEET

JS 44 (Rev. 08/16)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS United States of America		DEFENDANTS Baltimore County, Maryland					
(b) County of Residence of First Listed Plaintiff <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant <i>(IN U.S. PLAINTIFF CASES ONLY)</i>					
(c) Attorneys (Firm Name, Address, and Telephone Number) Kathleen Lawrence and Kunti Salazar, USDOJ, Civil Rights Division, Employment Litigation Section, 4 Constitution Square, 150 M Street NE/Rm 9-932 Washington D.C. 20002; (202) 616-9100		Attorneys (<i>If Known</i>) Michael E. Field, County Attorney and Gregory E. Gaskins, Deputy County Attorney, Baltimore County Office of Law 400 Washington Ave. Towson, MD 21204; (410) 887-4420					
II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i>		III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i>					
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4				
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5				
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6				
IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>							
CONTRACT		TORTS					
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise		PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice		PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	
						BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	
						PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
						LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	
						SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
						FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
						IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	
V. ORIGIN <i>(Place an "X" in One Box Only)</i>				Click here for: Nature of Suit Code Descriptions .			
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 7 Interpleader	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
Cite the U.S. Civil Statute under which you are filing (<i>Do not cite jurisdictional statutes unless diversity</i>): Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 200e-6							
Brief description of cause: Pattern or Practice of Employment Discrimination							
VI. CAUSE OF ACTION		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.		DEMANDS		CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
VII. REQUESTED IN COMPLAINT:							
VIII. RELATED CASE(S) IF ANY		<i>(See instructions):</i>		JUDGE		DOCKET NUMBER	
DATE 08/27/2019				SIGNATURE OF ATTORNEY OF RECORD <i>bfg</i>			
FOR OFFICE USE ONLY							
RECEIPT #	AMOUNT	APPLYING IPP	JUDGE			MAG. JUDGE	

UNITED STATES DISTRICT COURT
for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No.

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____
was received by me on (*date*) _____.

I personally served the summons on the individual at (*place*) _____
on (*date*) _____; or

I left the summons at the individual's residence or usual place of abode with (*name*) _____,
a person of suitable age and discretion who resides there,
on (*date*) _____, and mailed a copy to the individual's last known address; or

I served the summons on (*name of individual*) _____, who is
designated by law to accept service of process on behalf of (*name of organization*) _____
on (*date*) _____; or

I returned the summons unexecuted because _____; or

Other (*specify*): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: